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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,333	04/08/2004	Andreas Almanstoetter	DT-6786	8552
30377	7590	07/19/2005		EXAMINER
DAVID TOREN, ESQ. ABELMAN FRAYNE & SCHWAB 666 THIRD AVENUE NEW YORK, NY 10017-5621			MAFAHER, NINA YASMIN	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/820,333	ALMANSTOETTER ET AL.
	Examiner Nina Y. Mafaher	Art Unit 2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) 1 and 4-6 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 08 April 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Daigneault (6,609,865).

With respect to Claim 1, Daigneault discloses a measuring device for and securable to a fastening element comprising of an indicator means (Column 1, lines 49 – 56). Daigneault further discloses a plurality of microcapsules filled with dye (Column 2, lines 19 – 27), as well as a covering provided on the outer surface of the indicator means (Figures 1 & 2, #20, #30, #40; Column 2, lines 8-10) (The actuating surface 40 is shown to cover the pressure sensitive substance 20 which contains microcapsules within a matrix 30, read as the indicator means) and an opening through which a fastening element can extend (Figure 1, #2).

With respect to Claim 6, Daigneault discloses a fastening system comprising a fastening element and a measuring device (Abstract). Daigneault further discloses the element having an opening (Figure 1, #2), an indicator means (Column 1, lines 49 – 56),

a plurality of microcapsules filled with color dye (Column 2, lines 19- 27), and a covering on the outer surface of the indicator means (Figure 1, #30, #40).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daigneault (6,609,865) in view of Shinjo (3,948,141).

With respect to Claim 2, Daigneault teaches the invention set forth above but fails to teach a capillary slot. Shinjo discloses a measuring device with capillary slots (Figure 1, #10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the measuring device of Daigneault with the slots of Shinjo for the purpose of localizing the dye in a specific region when released from the microcapsules, since it would be easier for the user to see the dye in a concentrated area.

With respect to Claim 3, Daigneault discloses the invention set forth above and further teaches the indicator means being located between the fastener and the covering (Figures 1 & 2, #10, #30, #40). Daigneault discloses the fastener as a crimp ring instead of a washer. Shinjo discloses a fastener as an indicating washer (Column 1, lines 42 - 44). It would have been obvious to one of ordinary skill in the art to replace the

crimp ring (Figure 1, #10) of Daigneault with the washer of Shinjo for use in joining two different elements, since there are many different elements that require a fastener, each application requiring a different type of fastener for those elements.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daigneault (6,609,865) in view of Herr (6,425,718).

Daigneault teaches the invention as set forth above and further teaches a plurality of microcapsules. Daigneault lacks two different types of microcapsules. Herr discloses a measuring device with at least two different types of microcapsules each containing a different color dye (Column 1, lines 55 – 67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the microcapsules of Daigneault with that of Herr for the purpose of creating a multi-tension indicator, since there are some bolting applications where the bolt must be tightened to two or more specific tensions and by making the material in the first type of microcapsule a different color than the material in the second type of microcapsule, an operator can determine which of the two or more desired tensions the fastening element has reached.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daigneault (6,609,865) as applied to claim 1 above, and further in view of Eastham (GB 2194062 A).

Daigneault teaches the invention as set forth above and further teaches a plurality of microcapsules filled with dye (Column 2, lines 19 – 27). Daigneault lacks the dye being a fluorescent color dye. Eastham teaches a plurality of microcapsules loaded with a fluorescent dye (Abstract; Column 3, lines 34 - 38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the microcapsules of Daigneault as taught by Eastham for the purpose of making the dye more visible, since fluorescent is by definition brilliantly colored and is therefore readily visible to the human eye or and imaging device, or can be made visible by exposure to ultraviolet radiation (Column 3, lines 34 – 38, 43 – 49).

Information Disclosure Statement

7. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Objections

8. Claims 1 and 4 –6 are objected to because of the following informalities: The term "die" is improperly spelled. The correct spelling is "dye" defined as a soluble or insoluble coloring matter. Appropriate correction is required.

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9. Claims 1 and 6 objected to because of the following informalities: The statement "at least regionwise" is unclear. Region is a subjective term and does not clearly define the boundaries needed to support patentable subject matter. Appropriate correction is required.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nina Y. Mafaher whose telephone number is (571)272-1812. The examiner can normally be reached Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571)272-2180. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NYM


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